UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,382	05/16/2001	Steven K. Meier	LUT 2 0055	3411

7590 04/06/2005	**EXAMINER**
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ART UNIT	PAPER NUMBER
2662	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/858,382	MEIER ET AL.
	Examiner	Art Unit	
	AHMED ELALLAM	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _16 May 2001_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _1-13_ is/are allowed.

6)☒ Claim(s) _14-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _16 May 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _11/12/2002_.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Specification

1.   The disclosure is objected to because of the following informalities:

On page 5, paragraph [0017] figure 2 refers to a table, however there is

four drawings 2.A through 2.D, each having different table. The description of the

drawing is not inconsistence with the illustrated drawings.

Appropriate correction is required.

Claim Objections

2.   Claim 17 is objected to because of the following informalities:

In claim 17, the phrase "requested received" has a typo error, probably it

should be "request received". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

In claim 18, the phrase "the request received does not indicate a specific

code" is confusing, because it is already indicated in parent claim 17 that "the

request received also indicates a specific code which is desired", The statement

of the request having both a specific code and not having a specific code is

contradictory. Herein after, Examiner assumes that claim 18 depends from claim

14 and not 17.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section
122(b), by another filed in the United States before the invention by the applicant for patent or
(2) a patent granted on an application for patent by another filed in the United States before
the invention by the applicant for patent, except that an international application filed under
the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an
application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 14, 15, 16, 19, and 20 are rejected under 35 U.S.C. 102(e) as

being anticipated by Take, US (6,477,158).

Regarding claim 14, Take, with reference to figures 3, 4 and 12, discloses

a method of allocating a set of codes used to distinguish and isolate air interface

channels of a wireless telecommunications network, the method comprising:

providing a structured-tree code comprising a plurality of branches, each

branch has a plurality of levels, each level having codes of the same size and

the codes belonging to the same branch and level are orthogonal, see figure 3

(as an example), and column 7, lines 57-67 and column 8, lines 1-4. (Claimed

dividing the codes into a plurality of families such that each family includes a

plurality of codes, wherein each code has a size and at least two codes in each

family have different sizes). (In accordance with the specification, Examiner

equated the claimed family as any branch emanated from any level within the

tree structure);

receiving a request, the request having a code level, see column 2, lines 61-67 and column 4, lines 1-9, column 8, lines 5-35.

selecting candidate codes, see column 8, lines 5-18, (claimed choosing a family from which a code is to be selected for allocation)

selecting a code out of candidate codes, see figure 4, step S0104, and column 8, lines 19-20. (Claimed identifying a fragmented code in the chosen family provided one exist, and selecting a code

in the chosen family based on the identified fragmented code provided a fragmented code was identified, otherwise making no selection). (Examiner interpreted the candidate code belonging to the same level as being the claimed identifying a fragmented code);

assigning the candidate code provided one exist, see step S0113, of figure 4, and column 8, lines 35-54. (Claimed allocating the selected code provided a selection was made, otherwise indicating that no code is available).

Regarding claim 15, Take discloses selecting an assignable code which suites the request, and exist in a location as close to a not-assignable code as possible and in a level lower than the not-assignable code in the tree structure, see column 2, lines 61-67 and column 4, lines 1-9. (Claimed: the fragmented code identified is of the desired size provided one of that size exists, otherwise the fragmented code identified has a size which is smaller than the desired size and is as close or closer to the desired size when compared to any other fragmented codes of smaller than the desired size).

Regarding claim 16, Take discloses selecting an assignable code which

suites the request, and exist in a location as close to a not-assignable code as

possible and in a level lower than the not-assignable code in the tree structure,

see column 2, lines 61-67 and column 4, lines 1-9. (Claimed: the code selected

is the identified fragmented code when the identified fragmented code is of the

desired size, otherwise the code is selected from the identified fragmented

code's progeny such that the selected code is of the desired size).

Regarding claim 19, Take discloses that lower levels in the tree structure

are used in high data rate requests, see column 7, lines 46-57. (Claimed one of

the plurality of families is designated for high speed data traffic such that when a

requested is received for a code to be associated with high speed data traffic,

the designated family is chosen).

Regarding claim 20, take discloses a list 26, figure 15, comprising

candidate codes (claim fragmented code), and assigned code, see column 10,

lines 23-48, Examiner interpreted the presence of candidate code and assigned

code as being the claimed "maintaining a list of fragmented codes, and

updating the list of fragmented codes when busy codes cease being busy",

because once the code is ceased from being assigned, it may becomes a

candidate for new requests, and therefore the table is subsequently updated.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Take in view of Bender et al, US 2003/0076795.

Regarding claim 17, Take discloses all the limitations of parent claim 14 as indicated above, except it doesn't disclose the desired code are specific codes.

However, Bender discloses specific codes for use in specific channels. See paragraph [0057]. It would have been obvious to a person of skill in the art, at the time the invention was made to provide the code allocation method of Take with the designation of specific codes as taught by Bender so that in addition to code size allocations, other specific channels can be allocated using specific codes, the advantage would be the ability to provide channel control using dedicated codes that distinguish between different types of channels.

Regarding claim 18,Take discloses selecting an assignable code which suites the request, and exist in a location as close to a not-assignable code as possible and in a level lower than the not-assignable code in the tree structure, see column 2, lines 61-67 and column 4, lines 1-9, and figure 3. (Claimed the request received does not indicate a specific code, the family chosen is the one which has a smallest combined number of blocked and busy codes of a largest code size).

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure: Gilhousen, US (5,751,761); Adashi, US (6,084,884); Minn

et al, US (6,088,347; Ovesjo et al, US (6,108,369); Felix et al, US (6,233,231);

Song et al, US 2001/0008523; Yun et al, US 2002/0067692; Wilberg et al, US

2002/0172264; Kong et al, US (6,700,881); Khaleghi et al, US (6,704,328); Wei

et al, US (6,714, 526); Jamal et al, US (6,724,813); Yun et al, US (6,822,998);

Moon et al, US (6,831,910).

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to AHMED ELALLAM whose telephone number

is (571) 272-3097. The examiner can normally be reached on 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Kizou Hassan can be reached on (571) 272-3088. The

fax phone number for the organization where this application or proceeding is

assigned is 703-872-9306.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through

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direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free).

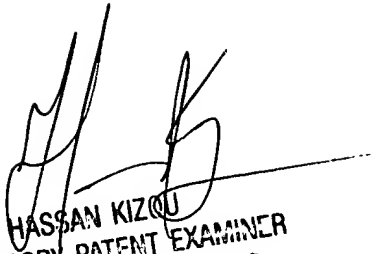AHMED ELALLAM
Examiner
Art Unit 2662
April 1, 2005

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